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January 5th 2024

Honorable Judge John Dorsey
824 N Market St
5th Floor, Courtroom 5
Wilmington, DE 19801
302-533-3169

CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

Re: OBJECTION to Motion of Debtors to estimate claims based on digital assets, Case No. 22-11068 (JTD), Hearing Date: January 25, 2024 at 10:00 a.m. (ET)

Dear Judge Dorsey

I hope this letter finds you well. I am writing to formally object to the Debtor's request for an order to estimate Claims (including Customer Entitlement Claims) based on the amounts set forth in the Digital Assets Conversion Table, because this is grossly inequitable and unfair to customer creditors who have their claims denominated in specific digital assets (rather than USD).

I am a customer creditor, with a significant sized claim of approximately 3 million USD primarily denominated in specific digital assets. This is of importance because digital asset prices have increased greatly since the time of the original bankruptcy petition. The Debtor's Motion to value customer claims at the time of the petition would unfairly prejudice a significant class of customers which have their claims denominated in specific digital assets. While this letter represents my objection to the aforementioned Motion by Debtors, having been in contact with other customer claimants with claims totaling \$500 million (at petition date prices), I know my view is not a lone objection.

1. The Motion by Debtors ignores the express terms of the FTX Terms of Service (TOS)

Clause 8.2.6 of the TOS expressly states as follows:

(A) Title to your Digital Assets shall at all times remain with you and shall not transfer to FTX Trading. As the owner of Digital Assets in your Account, you shall bear all risk of loss of such Digital Assets. FTX Trading shall have no liability for fluctuations in the fiat currency value of Digital Assets held in your Account.

(B) None of the Digital Assets in your Account are the property of, or shall or may be loaned to, FTX Trading; FTX Trading does not represent or treat Digital Assets in User's Accounts as belonging to FTX Trading.

Based on the clear terms of the TOS, I and many customers had dealt with the exchange on the basis that our digital assets held on the exchange remained our property (which are not generally available for creditor claims), so they should not be

mingled together with other assets of the Debtors (which are generally available for creditor claims). This is in contrast with other high profile bankruptcies in the space (e.g. notably Celsius) where the digital assets were a loan to the platform. Based on the TOS, digital assets held on the exchange were not loaned to the exchange, but rather customers should be entitled to claim ownership of their digital assets.

At the crux of the objection to Debtor's Motion regarding customer assets, there is a very important question of law which remains undetermined: **Given the express language of the TOS, whether customer assets form part of the Debtors' estate or whether customer assets should remain owned by customers and/or subject to a trust in favor of customers.** The resulting remedies and application of bankruptcy law would naturally follow the determination of this critical question of law.

As far as I am aware, the Debtors have not applied to court for a determination on this question of law, nor have any arguments for either position been openly heard before a court. I am only aware that there were private negotiations between certain customers/creditors and Debtors regarding this critical question of law, in respect of which the Debtors had separately settled out of court.

If the court finds that consumer assets do not form part of the Debtor's estate, then customer assets should be returned in the same form in which they were held.

2. Ad Hoc Committee (AHC) does not represent the interests of customer claimants with claims denominated in specific digital assets

Based on public information and private knowledge, the AHC represents claimants where ~40% percent of the claimants are not customers, but rather opportunistic investors who had purchased customer and non-customer claims. For these group of claimants, it would favor them to have claims valued at the time of the petition, because this would effectively mean that customer claimants with claims denominated in specific digital assets (which have now increased in price) would be robbed to reimburse the other categories of claimants and creditors.

It is not in the interest of claimants represented by AHC (and by extension, AHC) to fully and fairly engage with the court and the Debtors to seek clarity on the question of law of whether customer assets form part of the Debtors' estate.

As mentioned above, I am aware that there were certain private negotiations between claimants represented by AHC regarding this critical question of law, which were not openly heard before a court. This raises serious concerns that there is indeed a triable issue to be considered, otherwise the Debtors would not have settled the claim so swiftly and privately.

Despite spending hundreds of millions (primarily from customer funds) on legal and professional fees, the Debtors are still unable to achieve fairness for customer claimants, who should not in any circumstances be grouped into the same class as other creditors.

Due to the unique circumstances of the Debtor's business and the cryptocurrency industry (millions of "retail" customers), the profile of customer claimants tends to be scattered, making it difficult for claimants to organize themselves to present formal arguments before the court. Customer claimants have already been victimized by the actions of Sam Bankman- Fried. Please do not let us be victimized again by non-customer commercial interests or negligent professional advice guiding the Debtor's actions, just because there is no specific ad hoc committee formed to address these important issues.

For the reasons above, I respectfully request the court to deny the Motion, and immediately call for a determination of the critical question of law raised. I trust that you will consider these objections seriously in order to uphold fairness and integrity in the bankruptcy proceedings.

Thank you for your consideration.

Sincerely

David Siu

A handwritten signature in blue ink, appearing to read "DAVID SIU".

EXPRESS EASY (DOC)

POS v4.4



From : DAVID SIU TEL: +85362071118/Mob. +85362071118

DAVID SIU

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O PICO, BLOCK I, 39 ANDAR C

MACAU

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Origin:
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To : HONORABLE JUDGE JOHN DORSEY
HONORABLE JUDGE JOHN DORSEY
824 N MARKET ST.
5TH FLOOR, COURTROOM 5

19801-WILMINGTON
-UNITED STATES OF AMERICA

Contact:
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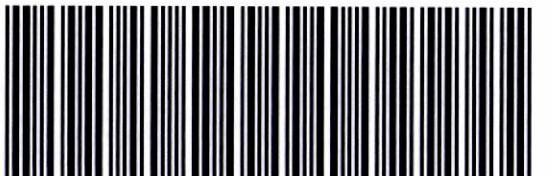
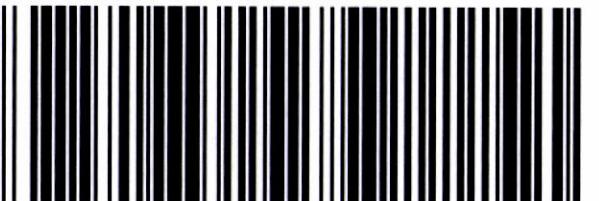
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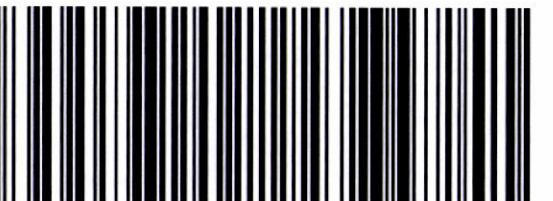
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Recipient's Copy Piece 1 of 1

DHL EXPRESS TERMS AND CONDITIONS OF CARRIAGE

("Terms and Conditions")

IMPORTANT NOTICE

When ordering DHL's services you, as "Shipper", are agreeing, on your behalf and on behalf of the consignee of the Shipment ("Consignee") and with an interest in the Shipment that these Terms and Conditions shall apply.
"Shipment" means all documents or parcels that travel under one waybill and which may be carried by any means DHL chooses, including air, road or carrier. A "waybill" shall include any Shipment identifier or document produced by DHL or Shipper automated systems such as a label, barcode, consignment note as well as any electronic version thereof. Every Shipment transported on a limited liability basis as provided herein. If Shipper requires greater protection, then insurance may be arranged at an additional cost. (Please see below for further information). "DHL" means any member of the DHL Express Network.

1. Customs Clearance and Regulatory Compliance

DHL may perform any of the following activities on Shipper's or Consignee's behalf in order to provide services: (1) complete any documents, amend product or service codes and advance any duties, taxes or other regulatory charges required under applicable laws and regulations ("Customs Duties"); (2) act as Shipper's or Consignee's true and lawful agent or designate a customs broker to perform export control and customs clearance and (3) redirect the Shipment to Consignee's customs broker or other address upon request by any person who DHL believes in its reasonable opinion to be authorized. Shipper or Consignee will provide any extra authorization required by applicable law for DHL to clear a Shipment.

2. Unacceptable Shipments

A Shipment is deemed unacceptable if:

- it contains complete firearms, ammunition, explosives, explosive devices or test pieces, air guns, replica or imitation firearms; counterfeit goods; cash; bullion (of any precious metal); live animals, prohibited animal parts or remains, such as ivory; human remains or ashes; loose precious or semi-precious stones; cannabis or its derivatives; or illegal goods, such as narcotics or other illegal drugs,
- it is classified as hazardous material, dangerous goods, prohibited or restricted articles under ADR (European Road Transport Regulation on dangerous goods) or by IATA (International Air Transport Association), ICAO (International Civil Aviation Organization), or other relevant organization ("Dangerous Goods"),
- it contains any other item which DHL cannot carry safely or legally,
- the address is incorrect or not properly marked or its packaging is defective or inadequate to ensure safe transportation with ordinary care in handling,
- Shipper, Consignee or any other party with a direct or indirect interest in the Shipment is listed on any applicable sanctions lists as a denied or restricted party.

3. Deliveries and Undeliverables

Shipments cannot be delivered to PO boxes or postal codes. Shipments are delivered to the Consignee's address given by Shipper but not necessarily to the named Consignee personally. Shipments to addresses with a central receiving area will be delivered to that area.

DHL may notify Consignee of an upcoming delivery or a missed delivery. Consignee may be offered alternative delivery options such as delivery on another day, no signature required, redirection or collection at a DHL Service Point.

If the Shipment is deemed to be unacceptable as described in Section 2, it has been undervalued for customs purposes, Consignee cannot be reasonably identified or located, or Consignee refuses delivery or to pay Customs Duties or other Shipment charges, DHL shall use reasonable efforts to return the Shipment to Shipper. This shall be at Shipper's cost. If it is not possible to return the Shipment, it may be released, abandoned, disposed of or sold without incurring any liability whatsoever to Shipper or anyone else. DHL shall have the right to destroy any Shipment if DHL is prevented by any law or law enforcement agency from returning it in whole or in part to Shipper, as well as any Shipment of Dangerous Goods.

4. Inspection

DHL has the right to open and inspect a Shipment without notice for safety, security, customs or other regulatory reasons.

5. Shipment Charges, Duties and Fees

DHL's Shipment charges are calculated according to the higher of actual or volumetric weight per piece and any piece may be re-weighed and re-measured by DHL to confirm this calculation.

Payment of Customs Duties and other charges due as indicated on DHL's website in the receiving country may be requested from Consignee prior to delivery. This includes a fee if DHL uses its credit with the Customs Authorities or pays any Customs Duties on Consignee's behalf. Shipper shall pay or reimburse DHL for all Customs Duties and other charges due for services provided by DHL or incurred by DHL on Shipper's or Consignee's behalf if Consignee has failed to pay.

6. DHL's Liability

6.1 DHL's liability in respect of any one Shipment transported by air (including ancillary road transport or stops en route) is limited by the Montreal Convention or the Warsaw Convention as applicable, or in the absence of such Convention, to the lower of (i) the current market or declared value, or (ii) 22 Special Drawing Rights per kilogram (approximately \$US 30.00 per kilogram). Such limits shall also apply to all other forms of transportation, except where Shipments are carried only by road, when the limits below apply.

For cross border Shipments transported by road, DHL's liability is or shall be deemed to be limited by the Convention for the International Carriage of Goods by Road (CMR) to the lower of (i) current market value or declared value, or (ii) 8.33 Special Drawing Rights per kilogram (approximately \$US 11.00 per kilogram). Such limits will also apply to national road transportation in the absence of any mandatory or lower liability limits in the applicable national transport law.

If Shipper regards these limits as insufficient it must make a specific declaration of value and request insurance as described in Section 6. All other types of damage are excluded (including but not limited to lost profits, interest, future business), whether such loss or damage is specific or general, and even if the risk of such loss or damage was brought to DHL's attention.

6.2 DHL will make every reasonable effort to deliver the Shipment to DHL's regular delivery schedules, but these schedules are not to be considered part of the contract. DHL is not liable for any damage caused by delay, but for certain Shipments, Shipper may be able to claim limited delay compensation under the Money Back Guarantee terms, which are available on the DHL website (<https://mydhl.express.dhl/>) or from DHL Customer Service.

7. Claims

All claims must be submitted in writing to DHL within thirty (30) days from the date DHL accepted the Shipment, failing which DHL shall have no liability whatsoever. Claims are limited to one claim per Shipment, settlement to be full and final settlement for all loss or damage in connection therewith.

8. Shipment Insurance

DHL may be able to arrange insurance for loss of or damage to the Shipment covering the full value of the goods, provided that Shipper so instructs in writing, including by completing the insurance section of the waybill or automated systems and pays the applicable premium. Shipment insurance does not cover indirect loss or damage, or loss or damage caused by delay.

9. Circumstances Beyond DHL's Control

DHL is not liable for any loss or damage arising out of circumstances beyond its control. These include but are not limited to electrical or magnetic damage, erasure of, electronic or photographic images, data or recordings; any characteristic related to the nature of the Shipment, even if known to DHL or omission by a person not employed or contracted by DHL - e.g. Shipper, Consignee, third party, customs or other government official; third party attacks or other information security related threats; "Force Majeure" - earthquake, cyclone, storm, flood, fog, war, plane crash, embargo, riot, pandemic, civil commotion, or industrial action.

10. Shipper's Representations, Warranties and Indemnities

Shipper shall indemnify and hold DHL and its directors, officers, employees, agents harmless from and against all and any liabilities, losses and damages arising out of Shipper's failure to comply with the following warranties and representations:

- The Shipment is acceptable for transport under Section 2 above.
- The Shipment was prepared in secure premises by reliable persons and protected against unauthorized interference during preparation, storage and transportation to DHL.

- Shipper has complied with applicable export control, sanctions, customs regulations or other applicable regulatory requirements and restrictions on the import, export, transit or transfer of goods.

- Shipper has declared to DHL any controlled dual-use or military goods, government authorizations contained in the Shipment.

- Shipper has provided all information, permits, licenses or other government authorizations and documents, as required by applicable law or upon request by DHL, and all information, permits, licenses or other government authorizations provided by Shipper or its representatives are true, complete and accurate, including the value and description of the goods and Shipment information.

- When providing personal data to DHL, Shipper has complied with its obligations to process and share this data, including informing the affected individuals that personal data, including Consignee's email address and phone number, is required for transport, customs clearance and delivery.

11. Routing

Shipper agrees to all routing and diversion, including the possibility that the Shipment may be carried via intermediate stopping places.

12. Governing Law

Any dispute arising under or in any way connected with these Terms and Conditions shall be subject to the non-exclusive jurisdiction of the courts governed by the law of the country of origin of the Shipment and Shipper irrevocably submits to such jurisdiction, unless contrary to applicable law.

13. Severability

The invalidity or unenforceability of any provision shall not affect any other terms and conditions.

Further information is available on the DHL website (<https://mydhl.express.dhl/>) and the relevant country site or from local DHL Customer Service.

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